

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SHETTY,

Appellant,

v.

RINCON,

Appellee.

Case No. 17-CV-01464-LHK

**ORDER DIRECTING BANK OF NEW  
YORK MELLON TO SHOW CAUSE  
WHY REQUESTED RELIEF SHOULD  
NOT BE GRANTED**

Re: Dkt. No. 11

On March 17, 2017, Appellant Niki-Alexander Shetty filed a notice of appeal of a bankruptcy court order granting relief from an automatic stay. ECF No. 1. Appellant identified two parties to the order appealed: The Bank of New York Mellon (BNYM) and Jose Rincon. ECF No. 1-1 at 2. Appellant provided contact information for BNYM's attorney and served by mail a copy of the notice of appeal to BNYM's attorney's address. *Id.* at 2, 7.

On July 20, 2017, the Clerk issued a notice of briefing setting a briefing schedule for the appeal. ECF No. 7. The Clerk mailed a copy of the notice of briefing to Appellee Jose Rincon, appearing pro se. ECF No. 7-1. BNYM had not yet appeared in the appeal or registered as a participant on ECF, and the Clerk did not mail BNYM a copy of the notice of briefing. *Id.*

On September 19, 2017, Appellant filed an application to augment the record on appeal and attached the portion of the transcript of the bankruptcy proceeding that he claimed was missing from the record previously lodged with the Court. ECF No. 9. The Court ordered that the transcript be considered a part of the record on appeal. ECF No. 11.

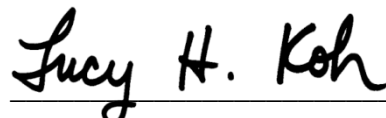
The Court also set the following briefing schedule: Appellant's principal brief was due by October 19, 2017. Appellee's response brief was due by November 20, 2017. Appellant's reply brief was due by December 4, 2017. *Id.* The Clerk mailed a copy of the Court's September 19, 2017 order to Appellee Rincon but not to BNYM, which still had not appeared. ECF No. 11-2.

Appellant filed his opening brief on October 20, 2017. ECF No. 12. Appellant mailed a copy of his opening brief and the record on appeal to BNYM's attorney on October 19, 2017. *Id.* at 30. It is now December 4, and BNYM has still failed to appear or to file a response brief. The Court hereby ORDERS BNYM to show cause why the relief requested in this appeal should not be granted. BNYM has until December 15, 2017, to file a written response to this Order to Show Cause. A hearing on this Order to Show Cause is hereby set for December 21, 2017, at 1:30 p.m.

Appellee's failure to respond to this Order will result in the Court's evaluation of the appeal without a response from BNYM.

**IT IS SO ORDERED.**

Dated: December 4, 2017



LUCY H. KOH  
United States District Judge